ENVIRONMENTAL QUALITY COUNCIL
LAND USE/ENVIRONMENTAL TRENDS SUBCOMMITTEE
Meeting Minutes
July 27, 2000

Draft: August 24, 2000
Approved: September 11, 2000

SUBCOMMITTEE MEMBERS PRESENT

Mr. Jerry Sorensen
Ms. Julia Page
Sen. Barry "Spook" Stang

SUBCOMMITTEE MEMBERS EXCUSED

None

STAFF MEMBERS PRESENT

Mary Vandenbosch
Judy Keintz, Secretary

Agenda (**Attachment 1**)
Visitors' list (Attachment 3)

SUBCOMMITTEE ACTION

- Adopted findings and recommendations to present to the full Environmental Quality Council (EQC) re: funding growth policies.

- Approved minutes of the May 4 and 5, 2000 meetings.

I CALL TO ORDER AND ROLL CALL

CHAIRMAN SORENSEN called the meeting to order at 9:30 a.m. Roll call was noted; all members were present (**Attachment 2**).

II REVIEW AND DISCUSSION OF COMMENTS RECEIVED ON DRAFT

CHAIRMAN SORENSEN stated that the main focus for the Subcommittee has been to find a reasonable funding source to help local governments with their growth policy efforts. Some of the possibilities include the general fund, reallocation of the coal tax, the bed tax, local option taxes and allowing an increase in the mill levy at the local government level.

MS. VANDENBOSCH provided a copy of the Comments Received on Draft Options Paper, **Exhibit 1,** and a copy of the Land/Use Environmental Trends Subcommittee Decision Matrix, **Exhibit 2.**

CHAIRMAN SORENSEN noted that most of the comments were supportive of the growth policy legislation and the idea that the state should play some financial role in helping local governments plan. He added that the Subcommittee met with the Director of the Department of Commerce, Dr. Peter Blouke, and the Director of Travel Montana, Matt Cohn to discuss the possibility of using some of the bed tax revenue. They did not see this as a good option at this time. One idea is to look at some of the funding allocated to the Treasure State Endowment Program. The Subcommittee will meet with MACo and the League of Cities and Towns to discuss the possibilities. Most of the money is allocated for a grant program for infrastructure, primarily water and sewer systems.

The bed tax is not a good option at this point unless changes were made to its allocation. The general fund is always an option but a difficult area from which to receive funding. The allocation of the current coal severance tax revenue is an opinion. There is a portion of the coal tax that is allocated to several programs and a small percentage is allocated to the counties for planning. This would amount to approximately $200,000 per year. This has basically been an entitlement to counties based on population and land area. A simple grant program could he developed to allow the counties to apply for growth policy needs. MACo is not in favor of this option because the counties have depended on this funding and built it into their budgets.

MS. PAGE stated that the coal tax option would have some appeal because one of the problems is a threshold amount of money for the parties that are ready to plan for growth to be able to move forward with their efforts. She questioned how painful it would be for the counties who would not receive the funding.

III PUBLIC COMMENT ON DRAFT REPORT RECOMMENDATIONS

Steve Hendricks, Director of Plan Helena, noted that in Lewis and Clark County the problem is implementation of the plan. The main problem with the 1983 growth policy is that next to nothing has been implemented. This is due to issues of political willpower and funding. They support the Subcommittee's recommendation to appropriate $2 million each biennium. They are in favor of any of the funding mechanisms recommended in the options paper. A combination of funding mechanisms may be the most realistic approach. They would like to see the money distributed in such a manner that every county would be given a base level and the remainder could be allocated on a grant basis. A base level of $10,000 to $15,000 would be very helpful to most counties. With respect to competitive grants, local governments ought to be asked to match the grants. A 50/50 match is fair. They would be pleased to see the coal severance tax reallocated to increase money for planning. They would also support a local option bed tax, a local option sales tax, and a local option to increase mill levies for planning. They agree with the realtors in that these matters can be left at the local level if the proper tools are available for good planning. They also support a real estate transfer tax, even though this may be a political nonstarter. The growth problem results from the subdividing, selling, and trading of land.

Jane Jelinski, MACo, concurred with the remarks of Plan Helena. She especially emphasized the need for an entitlement for a base level of funding. They support any of the options for additional funding. New money is essential. There is a need for maximum flexibility for creating growth policies as well as for implementation and infrastructure. She attended a national conference recently where the representative of the National Home Builders Association challenged all the Governors of America, saying that if they wanted to move ahead with economic development, it would be necessary to provide counties with the financial means to create the infrastructure.

IV SUBCOMMITTEE DECISION ON RECOMMENDATIONS TO EQC

✓ **A1. Appropriate $2 million each biennium for grants to cities, towns, and counties.**

CHAIRMAN SORENSEN noted that the comments supported this option. The Subcommittee approved this option.

✓ **B1. Statutorily allocate county land planning funds to a grant program for cities, towns, and counties.**

MS. VANDENBOSCH explained that this option would take the county land planning funds currently being distributed to counties and allocate them to a pool to be used for a grant program. One commentor suggested increasing the amount to $600,000 (from $400,000) for the biennium.

CHAIRMAN SORENSEN remarked that the small amount of money his county received as an entitlement when he was involved with this program did not do very much for his planning program. Some counties are not utilizing these funds for planning. There is very little auditing involved in the program. He favors modifying the program to have it set up as a grant program for growth policies or implementation of growth policies. This would result in a more targeted and efficient use of the funds.

MS. PAGE agreed but noted that this is existing money and not new money. SEN. STANG suggested that the money continue to be allocated to the counties using the current structure. Small counties use this for a good portion of their planning budget. It would be difficult for smaller counties to compete with larger counties for grant funding. New money should be found so that every county had a larger base amount and then the counties could apply for grant funding over and above the base amount.

CHAIRMAN SORENSEN summarized that it was important to find new money.

At this time, the Subcommittee would approve this option.

✓ **B2. Increase appropriation from combined coal tax account (8.36%)**

MS. VANDENBOSCH stated that this option would not raise any constitutional issues. The 8.36% is allocated for five programs. On page 15 of the draft options paper *Funding for Growth Policies* (**Exhibit 3**) there is a table showing the programs and the percentages allocated. The Legislature appropriates the funding for the different programs.

MS. VANDENBOSCH added that some of the money from the 8.36% goes to the general fund. The amount varies. Historical figures are presented in the draft options paper. The Legislature decides how much to appropriate for the five programs from the 8.36%. Any money left over goes to the general fund.

CHAIRMAN SORENSEN stated that he would not be in favor of taking funds from other programs but would be in favor of pursuing any money left over. He suggested a request that consideration be given for that money to be allocated for grants for growth policies.

MS. PAGE stated that it is important to emphasize that there is a need for land use planning. This could go a long way to making up the funding to the counties that are now receiving an entitlement. This would help in funding the grant program and would not take the funding away from the smaller counties.

CHAIRMAN SORENSEN summarized that a variation for this option would be to request an increased appropriation from the money that is not allocated that would go to the general fund.

✓ **B3. Increase coal severance tax revenue allocated to combined coal tax account.**

MS. VANDENBOSCH stated that the allocation could be taken from the general fund. MS. PAGE believed that option B2 would be a better method.

CHAIRMAN SORENSEN summarized that a recommendation could be to pursue funding from the general fund and options could be included as a subset of this recommendation.

✓ **B5. General fund**

CHAIRMAN SORENSEN recommended that part of the $2 million be taken from the general fund either from the extra funds left from the 8.36% of the coal severance tax revenue or directly from the general fund. SEN. STANG agreed and added that planning is a high priority and $2 million for planning would go farther than $2 million in tax relief.

✓ **B4. Appropriate lodging facility tax revenue.**
CHAIRMAN SORENSEN stated that, unless there is new funding as well as new ways to allocate the lodging facility tax, this would not be a viable option. SEN. STANG requested that the EQC staff follow any legislation in this regard to monitor the possibility that growth policy funding may be included.

✓ **C1. Local option sales tax.**
CHAIRMAN SORENSEN noted that this option is supported by the Montana Association of Realtors with the condition that there be auditing procedures set in place. It is opposed by the Taxpayers Association and the Billings Chamber of Commerce. He added that designating a portion of a local option sales tax for planning would probably be voted down in most areas.

SEN. STANG stated that this could be viewed as tax relief which would free up some funding for counties to use for planning in an indirect manner.

✓ **C3. Increased planning mill levy with exemption from property tax limits.**
CHAIRMAN SORENSEN remarked that this would allow counties to impose higher mill levies for planning that would not be subject to the freeze. There were no comments in favor of this option.

SEN. STANG commented that this proposal should not come from this Subcommittee. It would be more appropriate coming from the committee studying local government funding. The Subcommittee should make sure that this committee is aware of this option.

The Subcommittee agreed that local funding options would be better addressed by the Local Government Funding and Structure Committee established for this purpose.

✓ **D1. Set aside for rural counties.**
CHAIRMAN SORENSEN clarified that this option entailed that a certain amount of the $2 million allocation would be dedicated for the rural counties in the interests of leveling the playing field. He did not see a need for this option at this time. It is more important to focus on obtaining the money. A variation might be a base level entitlement for all counties. SEN. STANG agreed and added that the base entitlement should be kept at its present level and hopefully this could be expanded.

- ✓ **D2. Maximum grant award - $50,000 or 50% of the eligible costs, whichever is less.**

MS. PAGE noted the comment by Commerce that there might be an allowance for a hardship on matching.

The Subcommittee agreed with this option with the inclusion of a possible allowance for hardship. Once funding is obtained, the amount of $50,000 should be evaluated.

- ✓ **D3. Eligible local governments: cities, towns, counties, and planning boards.**

CHAIRMAN SORENSEN noted that a variation was planning boards with a letter of support from the governing body. He supported the variation.

Gavin Anderson, Department of Commerce (DOC), noted that the comment from the DOC was based on the statute that states that only a planning board can create a growth policy. If the planning board is creating the growth policy, they ought to be preparing the grant application so that they are more involved in the process.

Ms. Jelinski stated that the planning board cannot spend any money that is not appropriated by the county. The planning board is a part of the county budget process.

MS. VANDENBOSCH stated that the governing body may not want to create a planning board unless the funds are provided to prepare a growth policy. Once the planning board is created, they must go ahead with a growth policy.

Mr. Anderson clarified that the DOC's variation is that since the planning board is the only entity that can create the growth policy, they should make the application. They cannot do so without the resolution from the local governing body supporting the effort.

CHAIRMAN SORENSEN suggested that a modification be made that applications be made with the concurrence of the governing body and the planning board.

Ms. Jelinski remarked that the notion that only the planning board could apply would be opposed by MACo. It is conceivable that a county could have a planning department but no planning board. They may want to move in the direction of going ahead with the process but would be reluctant to do so without some funding base. They would attempt to secure the funds prior to creating the planning board. Counties should not be prohibited from applying for the funds.

MS. PAGE suggested the modification include the jurisdiction, with the concurrence of the planning board, if a planning board exists.

Mr. Anderson added that this could pose a problem with ranking for the grants. Readiness would be one of the criteria. MS. PAGE believed that part of the ranking should also include need.

The Subcommittee decided that grants could be awarded to cities, towns, counties and planning boards.

✓ **D4. Eligible activities**

CHAIRMAN SORENSEN raised a concern about counties with existing plans that wanted to go ahead with zoning. It is necessary that the plans be updated to conform with the growth policy. He was reluctant to provide money for implementation unless the growth policy met the minimum requirements of SB 97. The Subcommittee agreed.

✓ **D5. Require completion of activity within 1 year. One year extension may be authorized by DOC.**

The Subcommittee recommended a two-year timeline for completion with a one-year extension possibility.

✓ **New Options**

<u>Shared Expertise</u>

MS. VANDENBOSCH explained that both the Montana Association of Realtors (MAR) and Sharon Haugen, Lewis and Clark County, suggested an alternative involving increased technical assistance or shared expertise from the state. GIS mapping would be an example.

The Subcommittee liked the idea but decided not to address the idea at this time.

<u>Realty Transfer Tax</u>

SEN. STANG stated that any proposal for this option should come from the Local Government Funding and Structure Committee. He added that it would be difficult to get support from the full EQC on this option.

MS. PAGE remarked that there is nothing more directly tied or appropriate in terms of looking for new money for funding growth policy. Realty transfer is one of the things that leads to a need for planning. There was testimony that this tax is imposed in California. It is a very minimal tax and the realty industry lived with it. A very small percentage would yield a lot of money to be used for planning.

CHAIRMAN SORENSEN commented that if the larger taxation committee saw this as a source of appropriate revenue, the Subcommittee should be after a share of the funds.

Coal Trust within a Trust

SEN. STANG stated that this would be a very complicated mechanism. The Treasure State Endowment Program was set up by referendum. This may need a 3/4 vote of the Legislature.

CHAIRMAN SORENSEN suggested that this option be left on hold until the Treasure State Endowment Program possibilities were explored.

V PUBLIC COMMENT ON DRAFT REPORT RECOMMENDATIONS (Cont'd)

Mary Whittinghill, Montana Taxpayers Association, stated that they do not support the maximum mill levy. They want to support some level of funding guidelines by communities throughout the state. The $2 million of funding involves taxes. There needs to be a balance for taxpayers. In some communities, taxpayers are already funding growth policies with a mill levy. If this is entitlement money, there should be a corresponding reduction for the local taxpayers.

VI SUBCOMMITTEE DECISION ON RECOMMENDATIONS TO EOC (Cont'd)

MS. PAGE remarked that in regard to the real estate transfer tax, transfers occurring in cities should not be taxed. These areas are already developed. Subdivided land demands and uses more than is paid in services. A real estate tax for planning purposes should only include conversions of agricultural land into subdivided land. This would focus the burden and make more sense.

CHAIRMAN SORENSEN noted that it would be difficult to know at the time of sale whether or not there would be a conversion. This is when the transfer tax would take effect.

The Subcommittee decided to stay with their original decision regarding the realty transfer tax.

VII REPORT OR BRIEFING PAPER CONTENT: INSTRUCTIONS TO STAFF

CHAIRMAN SORENSEN stated that the options paper could be shortened to reflect the decisions made at the meeting. It would include the options accepted by the Subcommittee. He suggested that it also include a section on the options considered and discussed.

VIII BUSINESS AND NEXT STEPS

The Subcommittee decided not to have another meeting but will have a conference call to handle any unfinished business.

- **Adoption of Minutes**

Motion/Vote: SEN. STANG MOVED THAT THE MINUTES OF THE MAY 4 and 5, 2000 LAND USE/ENVIRONMENTAL TRENDS SUBCOMMITTEE MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.

MS. VANDENBOSCH added that she will prepare a draft document on use of setback requirements to address residential development in riparian areas. The document will emphasize the role of the growth policy.

IX ADJOURNMENT

There being no further business, the meeting was adjourned.